

USDOL/OALJ Reporter

[\*Phipps v. Florida Power & Light Co.\*, 95-ERA-53 \(Sec'y Feb. 21, 1996\)](#)

Go to: [Law Library Directory](#) | [Whistleblower Collection Directory](#) | [Search Form](#) | [Citation Guidelines](#)

---

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR  
WASHINGTON, D.C.

DATE: **FEB 21 1996**

CASE NO. 95-ERA-53

IN THE MATTER OF

GARY L. PHIPPS,  
COMPLAINANT,

v.

FLORIDA POWER & LIGHT CO.,  
RESPONDENT.

BEFORE: THE SECRETARY OF LABOR

ORDER OF DISMISSAL

Before me for review is an Order Cancelling Hearing and Recommended Order of Dismissal issued by the Administrative Law Judge (ALJ) in this case, which arises under the employee protection provisions of the Energy Reorganization Act of 1974 (ERA), as amended, 42 U.S.C. § 5851 (1988 Supp. IV 1992). Prior to a hearing, the parties submitted a fully executed Stipulation of Voluntary Dismissal With Prejudice. Based on the stipulation, the ALJ recommended this case be dismissed with prejudice and I concur.

Voluntary dismissals of ERA complaints are governed by Rule 41 of the Federal Rules of Civil Procedure. See *Nolder v. Kaiser Engineers, Inc.* Case No 84-ERA-5, Sec. Dec., June 28, 1985, slip op. at 6-8; *Blevins v. Tennessee Valley Authority*, Case No. 90-ERA-4, Sec. Dec., June 28, 1993, slip op. at 2. Such a stipulation of dismissal may be with prejudice. See *Dysert v. Florida Power & Light Co.*, Case No. 92-ERA-

26, Sec. Dec. June 28, 1993, slip op. at 1.

The ALJ's Recommendation is accepted and this case is  
DISMISSED WITH  
PREJUDICE.

SO ORDERED.

ROBERT B. REICH  
Secretary of Labor

Washington, D.C.